

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT ABBOTTABAD

Service Appeal No. 702/2016

Date of Institution... 01.07.2016

Date of decision... 18.09.2017

Ms. Iffat Huma D/O Muhammad Ajab Khan Cast: Swati, Headmistress, GGHSS,
Richbin, District Abbottabad. ... (Appellant)

Versus

1. Secretary to Government of Khyber Pakhtunkhwa E&SE, Peshawar and
others. (Respondents)

MR. AHMAD FAROOQ KHAN,
Advocate

... For appellant.

MR. MUHAMMAD BILAL
Deputy District Attorney

... For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. MUHAMMAD AMIN KHAN KUNDI,

... CHAIRMAN
... MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - Arguments of the learned
counsel for the parties heard and record perused.

FACTS

2. The appellant alongwith respondents No. 5 to 8 were transferred vide order dated 18.03.2015. In the said order of 18.03.2015, a condition was imposed that the said order to the extent of present appellant and respondent No.8 shall be effective subject to the condition that both of them will give an undertaking/affidavit to the effect that they would not claim benefit of graded pay and seniority of the higher pay scale. The reason of condition for these two persons were that they were in BPS-17 and through the impugned order, they were posted against the higher post of BPS-18. The same order was impugned and finally this Tribunal vide order dated 16.2.2016 decided that the impugned order to the extent of appellant and respondent No. 8 was conditional and was subject to

undertaking/affidavit of these two person and would not take effect if no consent of these two persons would be given. Thereafter the department misinterpreted the said order of this Tribunal and a letter was issued from the Directorate of Elementary and Secondary Education dated 07.03.2016 to the D.E.O (Female) Abbottabad directing the DEO (F) that the impugned transfer order had been upheld by this Tribunal by dismissing the appeal. In pursuance of the said letter, the DEO (F) Abbottabad issued another letter dated 11.3.2016, directing the appellant to relinquish the charge. The appellant in compliance with the said letter of the DEO (F) Abbottabad relinquished the charge with reservation that she would hand over the charge conditionally subject to the implementation of the judgment of this Tribunal as well as reserving of her legal right. The appellant thereafter while exercising her legal rights filed a departmental appeal on 16.3.2016 to the Secretary of the Department which was not responded to and hence the present appeal before this Tribunal on 01.07.2016.

ARGUMENTS

3. The learned counsel for the appellant argued that the judgment of this Tribunal dated 16.2.2016 is very much clear holding the impugned transfer order as conditional upon the consent of the appellant as well as respondent No. 8. That the letter from the Directorate of E&SE Khyber Pakhtunkhwa, Peshawar suffered from infirmity on the ground that firstly it was issued by an incompetent authority and secondly that the said letter misinterpreted the judgment of this Tribunal. That the appellant complied with the said transfer order by reserving her due legal rights and had never accepted the said transfer order unconditionally. That now the subsequent orders of transfer are liable to be set aside.

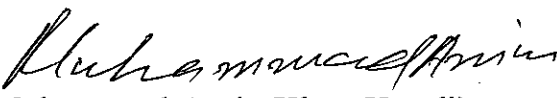
4. On the other hand, the learned Deputy District Attorney, argued that in reply to the memorandum of appeal, the Secretary of the Department had owned the letter issued by the Directorate. That the appellant should have filed an execution petition or contempt

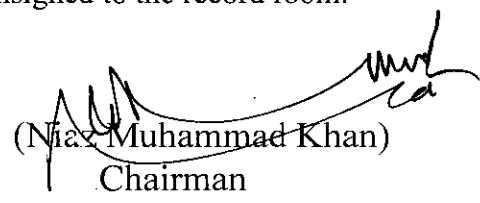
of court application for getting the earlier order of this Tribunal implemented. That the course adopted by the appellant is not legal.

CONCLUSION.

5. The order of this Tribunal dated 16.02.2016 is very much clear. According to this order, the impugned transfer order dated 18.3.2015 was made effective only subject to the consent of the appellant and respondent No.8. That the subsequent letter issued by the Directorate of Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar was issued by misinterpreting order of this Tribunal and the order issued by the DEO (F) Abbottabad on the basis of wrong letter of the Directorate, is also not sustainable in the eyes of law. The appellant has rightly filed departmental appeal against the subsequent transfer order and she had rightly relinquished the charge by reserving her legal right of approaching all the available fora. This is no argument that the appellant should have filed execution petition or contempt of court petition against the department.

6. As a result of the above discussion, this appeal is accepted and the impugned order dated 18.03.2015 and all the subsequent transfer orders based on the wrong interpretation of the judgment of this Tribunal are set aside to the extent of appellant and respondent No. 8. Parties are left to bear their own costs. File be consigned to the record room.


(Muhammad Amin Khan Kundi)
Member


(Niaz Muhammad Khan)
Chairman
Camp Court, A/Abad

ANNOUNCED


18.09.2017

18.09.2017

Counsel for the appellant and Mr. Muhammad Bilal, Deputy District Attorney alongwith Zahid Gul, ADO for the respondents present. Arguments heard and record perused.

This appeal is accepted as per our detailed judgment of today. Parties are left to bear their own costs. File be consigned to the record room.


Member



Chairman
Camp court, A/Abad

ANNOUNCED
18.09.2017

702/16

24.11.2016

Counsel for the appellant, Mr. Zahid Gul, ADO alongwith Mst. Bushra Bibi, Government Pleader for respondents No. 1 to 4 and written reply submitted. counsel for private respondent No. 5 submitted Wakalatnama and also submitted written undertaking relying on the written reply of official respondents. None present for respondents No. 6 to 8. Proceeded ex-parte. The appeal is assigned to D.B for rejoinder and final hearing for 14.03.2017 at camp court, Abbottabad.


Chairman
Camp Court, A/Abad

14.03.2017

Counsel for the appellant and Mr. Zahid Gul, ADO alongwith Mr. Muhammad Siddique, Sr.GP for the respondents present. Rejoinder not submitted. To come up for rejoinder and final hearing on 18.09.2017 at camp court, Abbottabad.


Chairman
Camp Court, A/Abad

Appel No. 702/2016
Mst. Iffat Huma vs Govt

07.2016

Counsel for the appellant present. Learned counsel for appellant argued that the appellant the appellant was transferred from GGHS, Rich Bin Abbottabad to GHSS vide transfer order dated 18.3.2015 which order was ultimately challenged before this Tribunal in service appeal No. 704/2015. That the said appeal was disposed of by this Tribunal vide judgment dated 16.2.2016 as the said transfer order was not implemented without consent of the appellant. That despite the said condition of consent of the appellant, the respondents forced the appellant to relinquish the charge vide impugned order dated 07.3.2016 followed by another order dated 11.3.2016 constraining the appellant to prefer departmental appeal on 16.3.2016 which was not responded and hence the service appeal on 01.7.2016.

That the impugned order is against the spirits of the judgment of this Tribunal and result of mis-use of authority by the respondents.


Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 23.09.2016 before S.B at camp court, Abbottabad. Notice of stay application shall also be issued to the respondents for the date fixed.

Appellant Deposited
Security & Process Fee


Chairman
Camp court, A/Abad,

23.09.2016

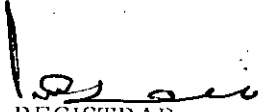

Counsel for the appellant, Zahid ADO alongwith Mr. Muhammad Siddique Sr.GP for the official respondents, Mr. Taimur Advocate for respondent No. 5, Mr. Farid Khan, Husband of respondent No. 6 and respondents No. 7 & 8 in person present. Mr. Taimur Khan Advocate requested for submission of Wakalatnama and written reply on the next date. To come up for written reply/comments of all the respondents on 24.11.2016 before S.B at camp court, Abbottabad.


Chairman
Camp court, A/Abad

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 702/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	01/07/2016	<p>The appeal of Mst. Iffat Huma presented today by Mr. Ahmad Farooq Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	1/07/2016	<p>This case is entrusted to Touring S. Bench at A.Abad for preliminary hearing to be put up there on <u>20-07-2016</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE SERVICE TRIBUNAL KHYBER PUKHTOONKHWA PESHAWER.

Appeal no. 702/2016

Ms. Iffat Huma D/O Muhammad Ajab Khan Cast: Swati, Headmistress GGHS
Richbin District Abbottabad.....Appellant.

Versus

Secretary to Govt. of Khyber Pukhtoonkhwa Elementary and Secondary
Education Department Peshawar.....Respondents.

SERVICE APPEAL

INDEX

S.NO	DISCRIPTION OF DOCUMENTS	ANNEX	PAGE
1	Memo of Service Appeal along with Affidavit	-	1-5
2	Application for suspension of Orders/Letters		6-7
3	Addresses of the Parties		8
4	Notification No: SO(S/F)E&SE/4-16/2015 Dated -18-03-2015	A	9
5	Copy of the Judgment in Service Appeal No-704/2015 Dated- 16-02-2016	B	10-12
6	Copy of the Application dated- 08-03-2016	C	13
7	Copy of the Letter No-299/ST dated-22-02-2016	D	14
8	Copy of the Letter No-1166 dated-07-03-2016	E	15
9	Letter No-1738 dated-11-03-2016	F	16
10	Charge Report	G	17
11	Copy of the departmental Representation/Appeal	H	18
12	Wakalatnama		

Dated: 18-06-2016

Appellant
Through
Ahmed Farooq Khan
Advocate, High Court



11

2

3

1/10/1947

4

5

BEFORE THE SERVICE TRIBUNAL KHYBER PUKHTOONKHWA PESHAWER.

Appeal no. 702/2016

Ms. Iffat Huma D/O Muhammad Ajab Khan Cast: Swati, Headmistress GGHS
Richbin District Abbottabad.....
**Khyber Pakhtukhwa
Service Tribunal.....Appellant.**

Diary No. 685

Versus

Dated 01-7-2016

- 1) Secretary to Govt. of Khyber Pukhtoonkhwa Elementary and Secondary Education Department Peshawer.
 - 2) Director Elementary and Secondary Education Department Peshawer.
 - 3) Assistant Director (Lit-II) Elementary and Secondary Education Department Peshawer.
 - 4) District Education Officer (Female) Abbottabad.
 - 5) Ms Saira Parveen Head Mistress GGHS Kunj Abbottabad.
 - 6) Ms Naheed Begum Head Mistress GGHS Ghumawan Abbottabad.
 - 7) Ms Iffat Sultana Subject Specialist GGHS Comprehensive Abbottabad.
 - 8) Ms Sajida Aziz Subject Specialist Islamiyat GGHS Takhet-e-Khurd Mansehra.
-Respondents.

*ex parte -
Respondent 6, 7 & 8
Sec - parte vide
order dt:
24-11-16*

APPEAL AGAINST THE ORDER/LETTER OF RESPONDENT NO: 3 OFFICE LETTER NO: 1166(Lit-II) DATED 07-03-2016 AND AGAINST THE OFFICE ORDER/LETTER OF RESPONDENT NO: 4 BEARING NO: 1738/EB-I DATED- 11-03-2016 BY VIOLATING THE FINDING OF THIS HONOURABLE TRIBUNAL IN SERVICE APPEAL NO: 704/2015 DATED- 16-02-2016 AND GIVING MEANING OF THEIR OWN CHOICE AND COMPELLING THE APPEALENT TO HANDOVER THE CHARGE TO RESPONDENT NO: 5 IN THE LIGHT OF NOTIFICATION NO. SO(S/F)E&SE/4-16/2015 DATED -18-03-2015.

PRAYER:-

By accepting this appeal the impugned office Orders/Letters of Respondents No-3, 4 dated - 07-03-2016 and 11-03-2016 be set aside being mala-fide, without law full authority, illegal, based on discrimination, against the posting transfer policy of Government of KPK, based on political interference, against the Judgment of this Hounourable Tribunal in Service Appeal

Filed to-day

Registrar

1/7/2016

No: 704/2015, Notification No: SO(S/F)E&SE/4-16/2015 Dated -18-03-2015 is no more in the field and is treated to be ineffective, cancelled, withdrawn in the light of Judgment dated- 16-02-2016 in service appeal no 704/2015.

RESPECTFULLY SHEWETH:-

The facts material to this appeal are as under:-

1. That Respondent No-1 has transferred the Appellant from GGHS Kunj Abbottabad to GGHS Richbin and Respondent No-5 was posted in place of Appellant vide Notification dated -18-03-2015. Copy is Annexure "A".
2. That according to Para- 2 of the said Notification, that order was conditional and will be effective subject to undertaking/affidavit of the Appellant and was actionable subject to consent of the Appellant.
3. That Appellant challenged the Notification dated-18-03-2015 through Service Appeal No-704/2015 and this Honourable Tribunal has clearly given finding in paragraph No-3 to 5 of the Judgment dated 16-02-2016, "that the impugned Notification is actionable subject to the consent of Appellant" and Appellant has categorically refused to submit undertaking/affidavit. Copy of the Judgment is annexed as Annexure "B".
4. That after announcement of the Judgment Appellant has informed Respondent No-1 her unwillingness and request for withdrawing Notification dated-18-03-2015 by submitting an application dated: 08-03-2016 which was registered in Register/Dairy of the Office of Respondent No-1 vide Diary No -3767 dated: 09-03-2016 which is still undecided. Copy is annexed as Annexure "C".
5. That Honourable Registrar of this Honourable Tribunal also through Letter No-299/ST dated-22-02-2016 addressed to Respondent No-1 for strict compliance of the judgment dated 16-02-2016. Copy is annexed as Annexure "D."
6. That Respondent No-3 vide impugned Letter No-1166 dated-07-03-2016 giving his own meaning to the Judgment of this Honourable Court and issued impugned letter totally against the Judgment dated- 16-02-2015 in service appeal NO-704/2015. Copy is annexed as Annexure "E".
7. That on the basis of the Letter of Respondent No-3, Respondent No- 4 has issued Letter No-1738 dated-11-03-2016 for implementation of the direction contain in the letter of the Respondent No-3 dated -07-03-2016. Copy is annexed as Annexure "F".
8. That on basis of the impugned letter's Respondent No-5 demanding handing over charge from Appellant and Respondents No-1 to 4 pressurizing the Appellant for handing over charge, so on 11-04-2016 Appellant conditionally handed over charge subject to the implementation of the Judgment in Service Appeal No-704/2015 dated -16-02-2016, competency, legality, propriety of the Orders/Letters dated-07-03-2016 and 11-03 2016. Copy of the same is annexed as Annexure "G".

- 9. That on 16-03-2016 Appellant submitted a departmental Appeal/Representation against the impugned letters of Respondents No-3, 4 dated: 07-03-2016 and 11-03-2016 respectively. Copy is annexed as Annexure "H".
- 10. That Respondents has not decided the departmental Representation /Appeal of the Appellant till date hence the Appellant seeks the gracious indulgence of this Hounourable Tribunal inter-alia on the following amongst other grounds.

GROUNDS:-



- a. That impugned notifications/letters are illegal, without lawful authority, against the merit policy and are void aba-initio.
- b. That notification dated 18-03-2105 is no more in the field in the light of Judgment in Service Appeal No-704/2015 dated 16-02-2016 and notification dated -18-03-2015 is deemed to be withdrawn/cancelled.
- c. That Respondent No-3 who is an Assistant Director has no authority to issue letter dated 07-03-2016 and giving the meaning of his own choice to the Judgment of this Hounourable Court.
- d. That Respondent No-3 has committed Contempt of Court giving the reference of Letter No-299 dated- 22-02-2016 of Hounourable Registrar of this Hounourable Court stated "appeal has been dismissed vide Judgment dated- 16-02-2016 in favour of Respondents". Neither the Hounourable Registrar of this Hounourable Court has stated in Annexure "D" nor in the Judgment of this Hounourable Court it has been mentioned that the Appeal No-704/15 is dismissed in favour of Respondents, rather the Hounourable Registrar emphasized on the strict compliance of judgment of 16-02-2016.
- e. That Respondent No-4 has also no authority to issue letter No-1738 dated 11-03-2016 because she is not competent authority in case of Appellant, the only competent authority is Respondent No-1 whose Notification dated 18-03-2015 is stand cancelled and presumed to b no more in the field after the judgment of this Hounourable Court in Appeal No-704/15 dated- 16-02-2016.
- f. That the other grounds will be discussed at the time of hearing.

It is therefore humbly prayed that by accepting of this Service Appeal this Honourable Court may graciously be pleased to declare that:-

- I. That the Transfer/Posting order of the Respondent No-1 dated 18-03-2015 is treated to be withdrawn in light of Judgment in Service appeal No-704/15 dated 16-02-2016 and is no more in the field.
- II. That office letter No-1166/AD,Lit:II dated 07-03-2016 is void aba-initio, without lawful authority, misuse of power, is totally against the spirit of the Judgment in Service appeal No-704/15 and moreover Respondent No-3 has no locus-standie to issue such like letters.

- III. That office letter No-1738/EB-I dated- 11-03-2016 is also against the spirit of the Judgment in Appeal No-704/15, void- aba-initio, without lawful authority and is liable to be set aside as Respondent No-4 is not a competent authority in case of Appellant.
- IV. That Appellant is suffering from two chronic diseases of heart and arthritis i.e. Chronic Atrial Fibrillation, Rheumatoid Arthritis with Osteoarthritis, therefore her case falls within the four corners of compassion, hardship and she is entitle for extra-ordinary relief.

Dated: 18-06-2016


Appellant
Through
Ahmed Farooq Khan
Advocate, High Court


AFFIDAVIT

I, Ms. Iffat Huma D/O Ajab Khan cast: swati, Headmistress GGHSS Richbin Abbottabad do hereby solemnly inform and declare on oath that the contents of the Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal .

ATTESTED
Muhammad Sajid Tanoli
28-6-2018
Oath Commissioner
District Courts, Mansehra

[Signature]
DEPONENT

BEFORE THE SERVICE TRIBUNAL KHYBER PUKHTOONKHWAWA PESHAWER.

Ms. Iffat Huma D/O Muhammad Ajab Khan Cast: Swati, Headmistress GGHS Richbin District Abbottabad.....Appellant.

Versus

- 1) Secretary to Govt. of Khyber Pukhtoonkhwa Elementary and Secondary Education Department Peshawer.
- 2) Director Elementary and Secondary Education Department Peshawer.
- 3) Assistant Director (Lit-II) Elementary and Secondary Education Department Peshawer.
- 4) District Education Officer (Female) Abbottabad.
- 5) Ms Saira Parveen Head Mistress GGHS Kunj Abbottabad.
- 6) Ms Naheed Begum Head Mistress GGHS Ghumawan Abbottabad.
- 7) Ms Iffat Sultana Subject Specialist GGHS Comprehensive Abbottabad.
- 8) Ms Sajida Aziz Subject Specialist Islamiyat GGHS Takhet-e-Khurd MansehraRespondents.

APPLICATION FOR SUSPENTION OF IMPUGNED ORDERS/LETTERS NO-1166(Lit-II) DATED 07-03-2016 AND NO-1738/EB-I DATED- 11-03-2016 OF RESPONDENTS NO: 3-4 AND RESPONDENTS BE DIRECTED TO RE-HANDOVER CHARGE TO APPELLANT AS HEADMISTRESS GGHS KUNG ABBOTTABAD.

- 1. That the Appellant has filed the above noted Appeal in this Hounourable Tribunal, the same may be considered part of this Application.
- 2. It is also prayed that the impugned Orders/Letters are not only illegal but are also without lawful authority and against the Judgment in Appeal NO- 704/2015.
- 3. That there is every likelihood that the impugned Orders/Letters will be set-aside by this Hounourable Tribunal, as the Appellant has a Prima-facie case and balance of connivance also heavily lies in favour of Appellant.
- 4. It is further prayed that if the impugned Orders/Letters are not suspended the Appellant will suffer irreparable loss as the said illegal Orders/Letters will create further complications.
- 5. Any other remedy which deems fit by this Hounourable Tribunal may please also be granted in favour of Appellant.

It is prayed that till the final disposal of this appeal the impugned Orders/Letters may be suspended and Respondents be directed to re-handover the charge to Appellant as Headmistress GGHS Kung Abbottabad.

Appellant *ha*

Through,
Ahmed Farooq Khan
Advocate, High Court

[Signature]

Dated: 18-06-2016

AFFIDAVIT

I, Ms. Iffat Huma D/O Ajab Khan cast: swati, Headmistress GGHSS Richbin Abbottabad do hereby solemnly inform and declare on oath that the contents of the Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal .



DEPONENT

[Signature]

BEFORE THE SERVICE TRIBUNAL KHYBER PUKHTOONKHWA PESHAWER.

Ms. Iffat Huma D/O Muhammad Ajab Khan Cast: Swati, Headmistress GGHS Richbin District Abbottabad.....Appellant.

Versus

Secretary to Govt. of Khyber Pukhtoonkhwa Elementary and Secondary Education Department Peshawar & Others.....Respondents.

ADDRESSES OF THE PARTIES:

APPELLANT.

Ms. Iffat Huma D/O Muhammad Ajab Khan Cast: Swati, Baffa House, Street No:3, Rahe Sakoon Habibullah Colony Abbottabad.

RESPONDENTS:

- 1) Secretary to Govt. of Khyber Pukhtoonkhwa Elementary and Secondary Education Department Civil Secretariat Peshawar.
- 2) Director Elementary and Secondary Education Department Peshawar.
- 3) Assistant Director (Lit-II) Elementary and Secondary Education Department Peshawar.
- 4) District Education Officer (Female) Abbottabad.
- 5) Ms Saira Parveen at present Head Mistress GGHS Kunj Abbottabad.
- 6) Ms Naheed Begum Head Mistress at present GGHS Ghumavan Abbottabad.
- 7) Ms Iffat Sultana Subject Specialist GGHS Comprehensive Abbottabad.
- 8) Ms Sajida Aziz Subject Specialist Islamiyat GGHS Takhet-e-Khurd Mansehra at present GGHS Comprehensive Abbottabad.

Dated: 18-06-2016

Appellant
Through
Ahmed Farooq Khan
Advocate, High Court





9
Annex - A

A

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the, March 18, 2015.

NOTIFICATION

Altered

NO.SO(S/F)E&SE/4-16/2015/Principals/HMs/SSs.: The following posting / transfer of female officers are hereby ordered with immediate effect:-

S.No	Name, Designation & place of posting	To	Remarks
1	Ms. Iffat Huma Headmistress (BS-17) GGHS Kunj Abbottabad.	I/C Principal (BS-18) GGHS Rich Bin Abbottabad (in her own pay & scale)	Against vacant post
2	Ms. Saira Parveen HM (BS-17) working as I/C Vice Principal (BS-18) at GGHS Comp: Abbottabad	Headmistress (BS-17) GGHS Kunj, Abbottabad.	Vice S.No.1.
3.	Ms. Naheed Begum HM (BS-17) GGHS Rich Bin, Abbottabad (awaiting for posting)	Headmistress (BS-17) GGHS Gumanwan, Abbottabad	Against vacant post
4.	Ms. Iffat Sultana Subject Specialist Islamiyat (BS-18) GGHS Comp: Abbottabad	Vice Principal (BS-18) GGHS Comp: Abbottabad	Vice S.No.2
5.	Ms. Sajida Aziz Subject Specialist Islamiyat (BS-17) GGHS Takht-e-Khurd, Mansehra	I/C Subject Specialist (BS-18) GGHS Comp: Abbottabad (in her own pay & scale)	Vice S.No.4

2. The above orders will be effective subject to the condition that Ms. Iffat Huma HM (S.No.1) & Ms. Sajida Aziz SS (S.No.5) will give an undertaking / Affidavit on legal / stamp paper to Secretary E&SE / Directorate E&SE, Peshawar to the effect that they will not claim benefits of graded pay and seniority of the higher pay scale.

3. No TA / DA allowed.

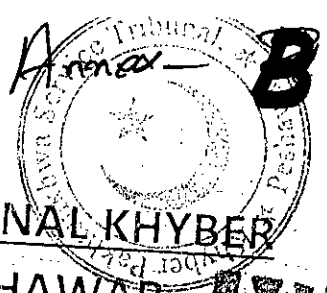
Endst.of even No & date

SECRETARY

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director, E&SE, Peshawar.
3. District Education Officer (F) Abbottabad & Mansehra.
4. District Accounts Officer Abbottabad & Mansehra.
5. Incharge EMIS, E&SE Department.
6. PS to Secretary E&SE Department.
7. Officer concerned.

(10)



BEFORE THE SERVICE TRIBUNAL KHYBER

PUKHTOONKHWA PESHAWAR

Appeal no. 704/2015

Ms. Iffat Huma D/O Muhammad Ajab Khan Cast: Swati,
Headmistress GGHS Kunj Abbottabad.....Appellant

A.W.F. Provincial Service Tribunal
Diary No. 741
Dated 24-6-15

VERSUS

- 1) SECRETARY TO GOVT. OF KHYBER PUKHTOONKHWA ELEMENTARY & SECONDARY EDUCATION DEPARTMENT PESHAWAR.
- 2) DIRECTOR ELEMENTARY & SECONDARY EDUCATION DEPARTMENT PESHAWAR.
- 3) Ms. Saira Parveen HM Working as I/C Vice Principal at GGHS Comprehensive Abbottabad.
- 4) Ms. Naheed Begum HM GGHS Richbin Abbottabad.
- 5) Ms. Iffat Sultana Subject Specialist GGHS Comprehensive Abbottabad.
- ⑥ Ms. Sajida Aziz Subject Specialist Islamiyat GGHS Takht-e-Khurid Mansehra.....Respondents

*Respondent
No - 6. Ex-panthe
vide order sheet
No. 8 dt 12/11/15.
Restore
15-12-15
Respd No 6*

APPEAL AGAINST THE ODER OF RESPONDENT NO.1 NOTIFICATION NO: SO(S/F)E&SE/4-16/2015/Principals/HMs/SSs Dated: 18th March 2015 VIDE WHICH THE APPEALANT HAS BEEN TRANSFERRED/POSTED INCHARGE PRINCIPAL GGHS RICHBIN ABBOTTABAD AND RESPONDENT NO. 3 HAS BEEN POSTED IN PLACE OF APPELLANT.

*Attest
[Signature]*

Filed to the Registrar
[Signature]
24/6/15

PRAYER:-

By accepting this appeal, the impugned notification be set aside, being malafide, without lawful authority, illegal, based on discrimination, against the posting transfer policy of Govt. of KPK and based on political interference.

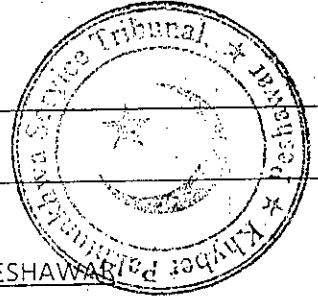
RESPECTFULLY SHEWETH:

The facts material to this appeal are as under:-

- 1. The Appellant is serving in the Education Department since June 1998 and is the resident of District Abbottabad.

ATTESTED
[Signature]
EXAMINED
Khyber Pakhtoonkhwa Service Tribunal, Peshawar

No. of Proceedings	Date of Order or Proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
CAMP COURT ABBOTTABAD.

SERVICE APPEAL NO 704/2015

(Ms. Iffat Huma-vs-Secretary to Govt. Of Khyber Pakhtunkhwa Elementary and Secondary Education Department, Peshawar and others).

16.02.2016

JUDGMENT

Aziz

MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:

Counsel for the appellant, Mr. Zahid Gul, ADO alongwith Mr. Muhammad Saddique, Senior Government Pleader for official respondents No.1 and 2 and counsel for private respondents No.3 and 5 present.

2. Ms. Iffat Huma D/o Muhammad Ajab Khan, hereinafter referred to as the appellant, has preferred the instant appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order 18.03.2015 vide which she was transferred from GGHS Kunj Abbottabad to GGHSS Richbin Abbottabad as Incharge Principal in her own pay scale.

3. During the course of arguments it was brought to our notice that the above order will be effective if the appellant and one Mst. Sajida Aziz, SS private respondent No.6 give an undertaking to the Secretary Elementary and Secondary Education to the effect that they will not claim benefits of graded pay and seniority of the higher pay scale.

4. During the course of arguments learned counsel for the appellant, when confronted with the afore-stated requirement, informed us that the appellant is

ATTESTED

Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

not willing to furnish any undertaking or affidavit as required of her in Para-2 of the impugned notification of transfer referred to above.

5. Since the afore-stated notification pertaining to transfer of the appellant is subject to undertaking/affidavit of appellant and is actionable subject to consent of appellant as such we do not see any reason to interfere with the same as the appellant is in a position to avoid its implementation by giving no undertaking.

Attested
[Signature]

6. For the afore-stated reason the appeal against the impugned order is not found competent. The same is, therefore, dismissed. No order as to costs. File be consigned to the record room.

Sd/- Muhammad Azim Khan Afridi,
Chairman

Sd/- Abdul Latif,
Member

ANNOUNCED
16.02.2016

Certified to be true copy
[Signature]
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 14-03-2016
Number of Words 1200
Copying Fee 8-00
Urgent 2-00
Total 10-00
Name of Copyist [Signature]
Date of Completion 14-03-2016
Date of Delivery of 14-03-2016

Secretary Dera
No - 3767
Dated 09/3/16

(13)

Annex -

C

To,

The Secretary,
Elementary & Secondary Education,
Department, Khyber Pakhtunkhwa,
Peshawar.

Attested
WJ

Subject: - WITHDRAWAL OF NOTIFICATION DATED 18.03.2015

Respected Sir,

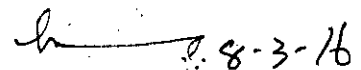
That the applicant at serial No.1 of the Notification dated 18.03.2015 was transferred, subject to condition, directed in Para No.2 of the order. Copy is attached herewith.

2. That the above mentioned order was subjudiced before, the Khyber Pakhtunkhwa Service Tribunal vide appeal No.704/2015.

3. That the Honable Service Tribunal, while, discussing the Para No.2 of the Notification dated 18.03.2015, held, in Para No.5 of the judgment dated 16.02.2016 "since the afore-stated Notification pertaining to transfer of the applicant is subject to undertaking affidavit of applicant and is actionable subject to consent of appellant as such we do not see any reason to interfere with the same, as the appellant, is in a position to avoid its implementation by giving no undertaking.

4. It is therefore, requested that the above mentioned Notification dated 18.03.2015 may kindly be withdrawn.

Yours faithfully,



(IFFAT HUMA)

Head Mistress,

GGHS Kunj, Abbottabad

(14)

Annex - D

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 299 /ST

Dated 22 /2 /2016

To

The Secretary E&SE,
Peshawar.

Attest
[Signature]

Subject: - Judgement.

I am directed to forward herewith certified copy of Judgement dated 16.2.2016 passed by this Tribunal on subject for strict compliance.

Encl: As above

[Signature]
REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

15

Handwritten signature and "Annex - E"

Most Immediate Court Matter

(Registered)

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
Khyber Pakhtunkhwa, Peshawar.



No. 116 / AD (Lit. II)

Dated Peshawar the 22/02/2016

To

The District Education Officer
(Female) District Abbott Abad.

Subject:-

INTIMATION REGARDING DISMISSAL OF SERVICE APPEAL No: 704/2015 CASE TITLED MST: HEAT HUMIA VERSUS SECRETARY E&SE DEPARTMENT & OTHERS VIDE JUDGMENT DATED 16/02/2016 BY THE SERVICE TRIBUNAL, PESHAWAR.

Memo:

I am directed vide letter No: 299/ST Dated 22/02/2016 & memo dated 22/02/2016 of the Registrar Khyber Pakhtunkhwa, Service Tribunal, Peshawar & Section Officer (Lit. II) Department, respectively & to state that the noted Service Appeal of the appellant against her transfer order dated 19/03/2015 issued by the Respondent No: 1 vide which she has been transferred from GGHS Kamj to GGHS Richbin District Abbott Abad has been dismissed vide judgment dated 16/2/2016 in favour of the Respondents.

Therefore, it is intimated for favour of your information & further necessary action, please

Encl: (Ad)

Asstt. Director (Lit. II)
E&SE Khyber Pakhtunkhwa
Peshawar

Encls: No: 116-63

- Copy forwarded for information to the:
- 1. Section Officer (Lit. II) E&SE Department, KPK Peshawar.
- 2. Section Officer (S/F) E&SE Department, KPK Peshawar.
- 3. Deputy Director, local Directorate.
- 4. PA to Director, local Directorate.

Handwritten signature

Asstt. Director (Lit. II)
E&SE Khyber Pakhtunkhwa
Peshawar

(15)

Annex — E

Better copy

Most immediate
Court Matter

(Registered)
DIRECTORATE OF ELEMENTRY & SECONDARY EDUCATION
Khyber Pukhtunkhwa. Peshawar.

No 1166 /AD (Lit:II2016.)

Dated Peshawar the 07/03/2015 ⁶

To

The District Education Officer
(Female) District Abbottabad.

Subject: - **INTIMATION REGARDING DISMISSAL OF SERVICE APPEAL NO: 704/2015 CASE TITLED MST: IFFAT HUMA VERSUS SECRETARY E&SE DEPARTMENT & OTHERS VIDE JUDGMENT DATED -16-02-2016 BY THE SERCICE TRIBUNAL PESHAWAR.**

Memo,

I am directed vide Letter No: 299/ST Dated 22/-2/2016 & Memo: dated of the Registrar Khyber Pukhtunkhwa Service Tribunal, Peshawar & Section Officer E&SE Department, respectively and to state that the noted Service Appeal of the appellant against the Transfer order dated 18/03/2015 issued by the Respondent No: 1 vide which she has been Transferred from GGHD Kung to GGHSS Richbin District Abbottabad has been dismissed vide Judgment dated 16-02-2016 in favour of the respondents.

Therefore it is intimated for favour of your information & further necessary Action please.

End: (AA)

Asstt: Director (Lit:II)
E&SE Khyber Pukhtunkhwa
Peshawar .

Endst No. 1167 : 68/

Copy forwarded for information to the:-

1. Section Officer (Lit-I) E&SE Department, KPK Peshawar.
2. Section Officer (S/F) E&SE Department, KPK Peshawar.
3. Deputy Director, Local Directorate.
4. PA to Director, Local Directorate.

Asstt: Director (Lit:II)
E&SE Khyber Pukhtunkhwa
Peshawar

(16)

Annex - F
wjt

OFFICE OF THE DISTRICT EDUCATION OFFICER FEMALE ABBOTTABAD.

No. 1738/EB-I

Dated 11/3/2016

To

Iffat Huma
H/M GGHS Kunj P Abbottabad.

Subject:-

INTIMATION REGARDING DISMISSAL OF SERVICE APPEAL No. 704/2015
CASE TITLED MST: IFFAT HUMA VERSUS SECRETARY E&SE DEPARTMENT & OTHERS
VIDE JUDGEMENT DATED 16/02/2016 BY THE SERVICE TRIBUNAL PESHAWAR.

Memo,

A copy of letter No 1166/AD (Lit: II) dated 07-03-2016 from Assistant Director Lit: E&SE Khyber Pakhtunkhwa Peshawar alongwith copy of Judgment passed by Service Tribunal KPK Peshawar dated 16-02-2016 are enclosed, with the remarks to follow/implement the directions contained therein under intimation to this office as well as competent authority.

This may be treated as most urgent.

[Signature]
DISTRICT EDUCATION OFFICER
(FEMALE) ABBOTTABAD.

Endst: No. _____

Copy to the:-

1. Assistant Director (Lit: II) E&SE Khyber Pakhtunkhwa Peshawar.
2. Principal GGHS Comp: Abbottabad alongwith copy of above letter/Judgment for Necessary action.
3. District Accounts Officer Abbottabad alongwith copy of letter/judgment for Information and necessary action accordingly. A copy of application submitted by Iffat Sultana Vice Principal GGHS Comp: Abbottabad is also enclosed for doing the Needful as per rules.

30/1
DISTRICT EDUCATION OFFICER
(FEMALE) ABBOTTABAD.

Attested

[Signature]

I handed over the Charge conditionally subject to the implementation of judgment in Service Appeal No 704/2015 dated

16.2.16 of the Honourable K.P.K

Service Tribunal and the legality and competency of the subsequent orders.

Handed over all records, registers Admission with draws, Pupil Fund registers, PTC Fund registers, PTC Meeting registers, PTC Cash Book Files From 2009 to 2016, PTC Cheque book, Pupil Fund Cheque book Stock registers, 7 Computers of

G.G.H.S Kunj ATD to Miss Saira Parveen in the Presence of Staff G.G.H.S Kunj ATD

I have taken over the charge of Kunj High School from GFFAT Huma HM

Saira Parveen
HEADMISTRESS
Govt. Girls High School
Kunj Abbottabad

[Signature]
HEADMISTRESS
Govt. Girls High School
Kunj Abbottabad

11/4/16

18

Annex

H

To,

The Secretary,

Elementary & Secondary Education,

KPK Peshawer.

Ally

Subject:-

Application for withdrawing the Notification No: SO(S/F)E&SE/4-16/2015 Dated -18-03-2015 and cancellation of letter No: 1166 AD/(Lit:II) dated 07-03-2016 Assistant Director Lit- KPK Peshawer and Letter No-1738/EB-I dated -11-03-2016 of DEO (Female) Abbottabad.

Respected Sir,

The Appellant submits as under:-

1. That the Appellant is presently serving as Headmistress (BPS-17) GGHS Kung Abbottabad.
2. That Notification dated-18-03-2015 was conditional and was actionable subject to consent of Appellant by submitting undertaking/affidavit.
3. That the Honourable Tribunal of KPK Peshawer while deciding appeal No-704/15 dated-16-02-2016 clearly ordered in paragraph No-3 to 5 of the Judgment that implementation of the impugned notification is subject to the consent of the appellant, I have categorically denied the implementation of the notification dated-18-03-2015 by multiple reasons stated in my previous application dated 21-03-2015.
4. That Assistant Director Lit-II, who has no power to issue letter No-1166 dated 07-03-2016, similarly the DEO (F) Abbottabad has also no authority to issue Letter No-1738/EB dated- 11-03-2016 or pressurized the appellant to handover the charge in the light of the judgment of Honourable Service Tribunal in service appeal no-704/15 dated-16-02-2016, because these letters are against the Judgment of Honourable Service Tribunal in service appeal no-704/15 dated-16-02-2016.

It is requested that Notification No: SO(S/F)E&SE/4-16/2015 Dated -18-03-2015 and subsequent letter dated-07-03-2016 of Assistant Director Lit: II and letter No-1738/EB-I dated -11-03-2016 of DEO (Female) Abbottabad may kindly be cancelled.

Your Sincerely,

Ms. Iffat Huma

Ms. Iffat Huma

Headmistress

GGHS Kung Abbottabad.

Dated: 16-03-2016

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.**

99

Service Appeal No: 702/2016

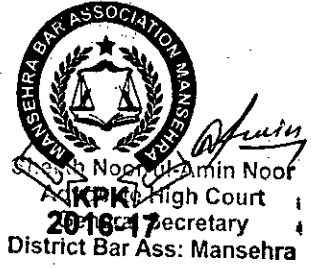
DBM No. 45
 BC No.

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 Name of Advocate. محمد رضا خان

S.No. 2758

وکالت نامہ



بعدالت صاحب سردار محمد کمال کور
 عنوان: میں صحت صفا بنام سیکٹری ڈسٹرکٹ
 منجانب: رہسہ نہ نوعیت مقدمہ سردار محمد

باعث تحریر آنکہ
 دریں مقدمہ عنوان بالا میں اپنی طرف سے برائے بیروی و جواب دی بمقام ڈی ایچ آر کے لیے
ایڈووکیٹ محمد کمال کور
 کو بدیں شرائط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا ہوں گا اور یوقت پکارے
 جانے وکیل موصوف کو اطلاع دیکر حاضر کروں گا اگر کسی پیشی پر مظہر حاضر نہ ہو اور غیر حاضری کی وجہ سے کسی طور پر مقدمہ
 میرے خلاف ہو گیا تو وکیل موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل موصوف صدر مقام پشہری کے علا
 کسی اور جگہ پشہری کے مقررہ اوقات سے پہلے یا بروز تعطیل بیروی کرنے کے مجاز نہ ہوں گے۔ اگر مقدمہ مقام پشہری کے علا
 کسی اور جگہ سماعت ہوا یا پشہری کے اوقات کے آگے پیچھے سماعت ہونے پر مظہر کو کوئی نقصان پہنچے تو وکیل موصوف ذمہ د
 نہ ہوں گے اور وکیل موصوف کو عرضی دعویٰ اور درخواست اجراء ڈگری و نظر ثانی اپیل نگرانی دائر کرنے نیز ہر قسم کی درخواست
 بیان حلفی و تصدیق کرنے اور اسپر دستخط کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کے اجراء کرانے اور ہر قسم کا روپیہ وصول
 کرنے اور رسید دینے اور داخل کرنے کا ہر قسم کا بیان دینے اور سپر دائی و راضی نامہ و دستبرداری و اقبال دعویٰ کا اختیار بھی ہوگا ا
 بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا فیصلہ قبل از ڈگری اجراء ڈگری بھی وکیل موصوف
 کو بشرط ادائیگی علیحدہ محتاتانہ ادا کرنے کا مجاز ہوگا اور بصورت ضرورت بدوران مقدمہ یا اپیل و نگرانی کسی دوسرے وکیل یا بیرسٹر کو
 بجائے خود یا اپنے ہمراہ مقرر کریں اور ایسے مشیر قانونی کو بھی اس امر میں وہی اختیار حاصل ہوں گے جیسے وکیل موصوف کو
 اور اگر پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو وکیل موصوف کو پورا اختیار ہوگا کہ مقدمہ کی بیروی نہ کریں اور ایسی حالت
 میں میرا مطالبہ وکیل موصوف کے برخلاف نہیں ہوگا مجھے کل ساختہ پر داختہ وکیل موصوف مثل ذات خود منظور و قبول ہوگا۔
 لہذا وکالت نامہ لکھ دیا ہے اور دستخط/انگوٹھا ثبت کر دیا ہے تاکہ سند ہے۔ مضمون وکالت نامہ سن لیا ہے۔ اور اچھی طرح سمجھ لیا ہے۔

محمد کمال کور

مورخہ 20

ACCEPTED

(Handwritten Signature)

ON FACTS

28

- 1 That Para-1 is correct to the extent that the appellant has been transferred vide Notification No: SO(S/F) E&SED/4-16/2015/Principals /HMs /SSs dated 18/3/2015 from GGHS Kunj against the vacant post of In-charge Principal of GGHSS Rich Bin District Abbott Abad in her own pay & scale of BPS-17 with the conditions that the above orders will be effective subject to the conditions that Ms Iffat Huma S/No: 1 & MS Sajida Aziz SS at S/No: 5 will give & undertaking /affidavit on legal / stamp paper to the Secretary / Director E&SE Department to the effect that they will not claim benefits of graded pay & seniority of the higher pay scale against the I/C Principal (BPS-18) GGHSS Rich Bin District Abbott Abad. Because, the appellant is actually working against the Head mistress post.

Aggrieved from the said Notification dated 18/3/2015, the appellant preferred a Service Appeal No: 704/2015 under the same titled before this Honorable Tribunal which was dismissed vide judgment dated 16/2/2016. Hence the same judgment was intimated to the Respondent No: 4 by the Respondent No: 3 for information. (Copies of the said Notification, judgment are as Annexures A&B).
- 2 That Para-2 is incorrect & misleading on the grounds that the appellant is basically working against the Headmistress post in BPS-17, whereas she has been adjusted against the In Charge Principal post at GGHSS Rich Bin District Abbott Abad against a BPS-18 post in her own pay & scale, hence the above said Notification dated 18/3/2015 is legally competent & on this ground, the appeal of the appellant was dismissed vide judgment dated 16/2/ 2016 by this Honorable Tribunal.
- 3 That Para-3 is incorrect & denied the appeal of the appellant has been dismissed vide judgment dated 16/2/2016 by this Honorable Tribunal in favour of the Respondents, hence the judgment was intimated the Respondent No: 4 for information to the District Education Officer (F) Abbott Abad.
- 4 That Para-4, needs no comments being pertains to the record.
- 5 That Para-5, is correct to the extent that vide judgment dated 16/2/2016, this Honorable Service Tribunal has dismissed the Service Appeal of the appellant. Hence, a copy of the judgment dated 16/2/2016, has been endorsed to the Respondent No:4 for information .
- 6 That Para-6 is incorrect & denied. The mentioned judgment dated 16/2/2016, of this Honorable Tribunal has been intimated to the Respondent No: 4 for information & compliance in view of the directions of this Honorable Tribunal. Hence the plea of the appellant is not only misleading but is also liable to be dismissed.
- 7 That Para-7 needs no comments. Detailed reply of this Para has been given in the foregoing paras.
- 8 That ara-8 is also incorrect & denied. The impugned Notification dated 18/3/2016 was /is legally competent as the appellant is actually working in BPS-17 & has been adjusted against a BPS-18 post at GGHSS Rich Bin. Hence, the condition of Para-2 of the said Notification was mainly for the purpose of avoiding future claim regarding seniority & arrears by the appellant form the Respondent Department as her adjustment against the said post & school was on acting charge basis & not as regular Principal in BPS-18.
- 9 That Para-9 is incorrect & denied. No Departmental appeal has been filed by the appellant till dated.
- 10 That Para-10 needs no comments. As detailed reply of this para has been given in Para-9. Hence in view of the foregoing submissions, the Respondents further submit on the following grounds inter alia :-

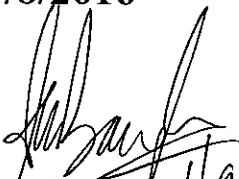
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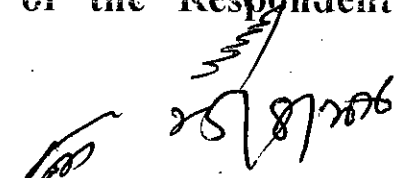
GROUND

- A Incorrect & denied. The impugned letters 07/3/2016 & 11/3/2016 are legally competent & are liable to be maintained.
- B Incorrect & denied. The impugned Notification dated 18/3/2015 is still in field. Because this Honorable Tribunal has been pleased to dismissed the Service Appeal # 704/2015 vide judgment dated 16/2/2016, Passed by this Honorable Tribunal in favour of the Respondents on merits of the case.
- C Incorrect & Denied. The letter dated 07/3/2016 was approved by the competent authority was only to the extent intimation of judgment dated 16/2/2016 passed by this Honorable Tribunal. Hence the plea of the appellant is liable to be struck down.
- D Incorrect & denied. Detailed reply of this Para has been given in Para-C. Hence, needs no further comments.
- E Incorrect & misleading. The Respondent No: 4 is working against the District Education Officer (F) Abbott Abad post whose job description is to administered the schools in her District being a competent authority.
- F Legal. However, the Respondents seek leave of this Honorable Tribunal to submit additional grounds of case law at the time of arguments on the dated fixed.

In view of the above made submissions, it is requested that this Honorable Tribunal may very graciously be pleased to dismiss the instant service appeal with cost in favor of the Respondent Department.

Dated 17/8/2016


Secretary
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondent No: 1)
11/9/16


Director
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondents No:2, 3 &4)
25/8/2016

24

~~Handwritten scribble~~

ADD (LIST)

گدالذ خان سرور میں سر سیدوں کے لیے ایک کھلی ہوئی نشست دیا۔

نقد سما
نہا انجوس

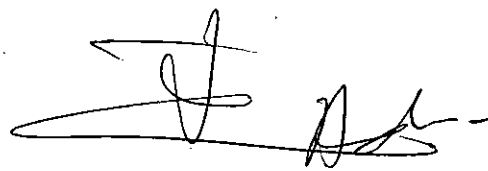
صبا بلو
رہنمائی فریڈ کلوہٹ کے جوان سر

Reley (رہنمائی)

المسوقہ 16-24

مدد بخور جوان انڈونڈ

دس رہنمائی فریڈ





**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

No. 2123 /ST Dated: 27/09/2017

Ph:- 091-9212281
Fax:- 091-9213262

DBA number _____
BC No. _____
Name of Advocate سید عجاز حسین

S.No. 42254



Head Clerk
District Bar Association
Abbottabad

وکالت نامہ

بعدالت سروس ٹریبونل کے۔ سی۔ کے۔ گڈ گورنگ ایسڈ اربا۔
عنوان: سید عجاز حسین بنام اتکوٹسٹن
منجانب: رسانڈنٹ کنری نوعیت مقدمہ سروس ٹریبونل
باعث تحریر آنکہ

مقدمہ مندرجہ بالا بعنوان میں اپنی طرف سے واسطے بیرونی وجوہات کے پیش یا تصفیہ مقدمہ بمقام _____ کے لیے

ملکہ سحر ایلوان رکن وکیل

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا ہوں گا اور بروقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا۔ اگر پیشی پر مظہر حاضر نہ ہوا اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طور پر ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام پشہری کے علاوہ کسی جگہ یا پشہری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل بیرونی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ پشہری کے علاوہ کسی اور جگہ سماعت ہونے پر یا بروز تعطیل یا پشہری کے اوقات کے آگے پیچھے پیش ہونے پر مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا جتانہ کے واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پر داختمہ صاحب موصوف مثل کردہ ذات منظور و مقبول ہوگا اور صاحب موصوف کو عرض دعویٰ یا جواب دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل نگرانی و ہر قسم درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کرانے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور اس پر ثالثی و راضی نامہ و فیصلہ برحلف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا اور بصورت جانے پیر و نجات از پشہری صدر اپیل ویر آمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم انتہائی یا قریبی یا گرفتاری قبل از گرفتاری و اجراءے ڈگری بھی صاحب موصوف کو بشرط ادا ایگی علیحدہ مختانہ بیرونی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکور یا اس کے کسی جزو کی کارروائی کے یا بصورت اپیل کسی دوسرے وکیل کو اپنے بجائے یا اپنے ہمراہ مقرر کریں اور ایسے وکیل کو بھی ہر امر میں وہی اور ویسے اختیارات حاصل ہوں گے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ جو کچھ ہر جانہ التوا پڑے گا وہ صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی بیرونی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

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لہذا وکالت نامہ لکھ دیا ہے کہ مندر ہے۔

مضمون وکالت نامہ اس میں لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔ دن ماہ سال

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Accepted